


Report to be read in conjunction with the Decision Notice.

Application Ref:	3/2021/0242	 Ribble Valley Borough Council <small>www.ribblevalley.gov.uk</small>
Date Inspected:	11/05/2021	
Officer:	AB	
DELEGATED ITEM FILE REPORT:		REFUSED

Development Description:	Outline application for up to 2 two storey residential dwellings (access and layout details applied for only)
Site Address/Location:	Land to rear of Glencroft Pendle Avenue Chatburn BB7 4AX

CONSULTATIONS:	Parish/Town Council
Chatburn Parish Council comments as follows:	
<ul style="list-style-type: none"> • Pendle Avenue is a private, unadopted road to which there is only one entry. Has the applicant legal access to the site? • Planning permission was approved, initially, for one dwelling, subsequently increased to two (3/2020/0112) and now potentially four, two of which are outside the Chatburn settlement boundary. • Traffic on this narrow road will be increased considerably by further development causing problems for the residents. 	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC Highways:	
No objection subject to conditions.	
Lead Local Flood Authority:	
No comment.	
Environment Agency:	
As submitted, we object to this application as it appears to involve work within 8m of Heys Brook watercourse, which is designated as a Main River. It is unlikely that we would grant a flood risk activity permit for this application. In addition, an unacceptable Flood Risk Assessment (FRA) has been submitted to support the application.	

CONSULTATIONS:	Additional Representations.
A total of 13 objections have been received and raise the following concerns:	
<ul style="list-style-type: none"> • Legal challenge regarding access rights. • Dwellings are three storeys, not two; • Strain on roads, schools and surrounding amenities; • Highway safety issues; • Nature and size of buildings not in-keeping; • Construction vehicle access issues and access has weight restrictions; • Public footpath crosses the site; • Impact on wildlife; • Brook is of spiritual importance to the Mormon community; 	

- Flooding on previous occasions.

RELEVANT POLICIES:

Ribble Valley Core Strategy:

Key Statement DS1 – Development Strategy
Key Statement DS2 – Sustainable Development
Key Statement DMI2 – Transport Considerations
Key Statement EN2 – Landscape
Key Statement EN3 – Sustainable Development and Climate Change
Key Statement EN4 – Biodiversity and Geodiversity
Key Statement H1 – Housing Provision
Policy DMG1 – General Considerations
Policy DMG2 – Strategic Considerations
Policy DMG3 – Transport and Mobility
Policy DME3 – Site and Species Protection and Conservation
Policy DME6 – Water Management
Policy DMH3 – Dwellings in the open countryside and AONB

National Planning Policy Framework

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The application site lies to the south-east of the settlement of Chatburn and comprises a parcel of undeveloped pastureland contained by trees and hedgerows. The application site is in common ownership with Glencroft, an existing dwelling located towards the south-eastern extents of Pendle Avenue.

The site is bounded to the north by Heys Brook and lies partly within flood zones 2 and 3. The site falls towards the north and Heys Brook. Planning consent was granted on land to the north for the demolition and rebuild of the existing dwelling and the erection of an additional dwelling under planning application 3/2020/0112.

Public footpath 3-11-FP12 runs directly through the site.

Proposed Development for which consent is sought:

Outline planning consent is sought for the erection of up to two residential dwellings. Matters of access and layout are applied for at this stage with all other matters reserved.

The submitted Site Plan indicates two dwellings with associated parking and garden areas with access taken through the previously approved development to the north. The access road to the site would be required to cross Heys Brook via a suspended bridge.

Principle of Development:

The latest published position in relation to housing land supply is contained in the Council's Five-Year Supply Statement (Published May 2020) which demonstrates a deliverable 13.9-year housing land supply from the base date of 31st March 2020 against a Local Housing Need Requirement figure of 143 dwellings per year calculated using the 'Standard Method' (as per para. 3. of PPG Guidance 'Housing supply and delivery'). Therefore, the Council is able to comfortably demonstrate a deliverable 5-year supply of housing land. The relevant policies for the supply of housing contained in the adopted Core Strategy can be afforded full weight and the presumption in favour of sustainable development is not engaged.

Taken from the Housing Land Availability Schedule (HLAS) March 2020, housing completion rates in the borough have significantly exceeded the Core Strategy housing requirement figure of 280 dwellings per year since 2014. The Government's objective to significantly boost the supply of homes is being met in the Ribble Valley.

Key Statement DS1 sets out the Borough's housing strategy and provides the overarching vision aimed at achieving a sustainable pattern of development. The majority of new housing development will be concentrated within the strategic site at Standen and the Borough's principal settlements of Clitheroe, Whalley and Longridge. In addition, development will be focused towards the Tier 1 Villages, which are the more sustainable of the 32 defined settlements. Chatburn is identified as a Tier 1 Village by Key Statement DS1. The appeal site lies in an area defined as open countryside, outside of the Chatburn settlement boundary which following the south side of Heys Brook.

Policy DMG2 (1) states 'development proposals in the principal settlements of Clitheroe, Longridge and Whalley and the Tier 1 Villages should consolidate, expand or round-off development so that it is closely related to the main built-up areas, ensuring this is appropriate to the scale of, and in keeping with, the existing settlement.' The appeal proposal does not comply with the above part of Policy DMG2 (1) as the appeal site is not located in the principal settlements of Clitheroe, Longridge and Whalley or a Tier 1 Village.

The second part of Policy DMG2 therefore applies to the appeal site given its location in the open countryside and outside of defined settlements areas. The provision of three new open market residential dwellings in this location fails to meet any of the considerations listed in Policy DMG2 (2). The development proposal also fails to comply with Policy DMH3 which limits new residential development in the open countryside and AONB to residential development essential for the purposes of agriculture or which meets an identified local need (as defined in the Core Strategy Glossary) none of which apply in this case.

Reference to appeal decision APP/T2350/W/19/3223816 Land to the South of Chatburn Old Road is noted in support of the application. However, more recent appeal decisions at Land to the South of Chapel Hill, Longridge (APP/T2350/W/20/3251360) and Land at Wiswell Lane, Whalley (APP/T2350/W/20/3248156) have clarified the correct interpretation of Core Strategy policies DMG2 and DMH3. The first part of Policy DMG2, DMG2 (1), is only engaged where a proposal is in a Principal or tier 1 settlement. The first part of Policy DMG2 reads;

'Development proposals in the Principal settlements of Clitheroe, Longridge and Whalley and the tier 1 villages should consolidate, expand or round-off development so that it is closely related to the main built up areas, ensuring this is appropriate to the scale of, and in keeping with, the existing settlement.'

Of particular relevance are paragraphs 10-11 (below) of the Wiswell Lane appeal decision in which the Inspector considers the first part of Policy DMG2.

"10. The first part of policy DMG2 states that development proposals in the principal settlements, such as Whalley, should consolidate, expand or round-off development so that it is closely related to the main built up areas of the existing settlement and appropriate to the scale of, and in keeping with, the existing settlement. Whether the appeal site is 'in' Whalley is a key point of dispute between the parties. The appellants consider the site to be within the settlement of Whalley, but agrees that it is outside of the drawn settlement boundary as referred to above.

11. Settlements are described in the glossary of the CS as being the defined settlement. This term is, in turn, clarified as relating to a settlement of a size and form that justifies treatment as a settlement, and those smaller than the identified limit will not be given settlement boundaries. Thus, a settlement in terms of the first part of DMG2 is one drawn with settlement boundaries. Consequently, I find that the appeal site is not 'in' the settlement of Whalley for the purposes of the first part of DMG2.

The definition of 'rounding-off' within the glossary of the Core Strategy specifically requires development to be within the settlement boundary. Whilst the other two definitions, 'consolidation' and 'expansion', do not explicitly require development to be within the settlement boundary, it should not be taken that they are permissive of housing development beyond the defined Principal and Tier 1 settlements.

Expansion or consolidation can be undertaken within a defined settlement particularly where such a settlement boundary encompasses or includes land that is yet to be developed, such as a greenfield site. In respect of the above it is clear that the policy is supportive of the growth of settlements, but that such growth must be undertaken inside the defined settlement boundaries.

The interplay between the wording of Policy DMG2 and the glossary definitions of consolidation, expansion and rounding-off was considered in detail by the Wiswell Lane Inspector at paragraph 12-14 of his decision notice below: -

12. The first part of policy DMG2 is also conditional upon the relationship of the proposed development to the existing settlement, be it consolidation, expansion or rounding-off. The definition of consolidation refers to locating new development so that it adjoins the main built up area of the settlement and where appropriate both the main urban area and an area of sporadic or isolated development. Expansion is defined as limited growth of a settlement that generally should be in scale and keeping with the existing urban area. However, the definition of rounding-off within the glossary of the CS specifically requires development to be within the settlement boundary.

13. The appellant considers the first two definitions expressly allow development to take place on land outside the settlement boundary, and that the wording of 'in' within the context of DMG2 should really be 'at'. However, the definitions in the glossary are there to support the interpretation of policy, not to change the wording, or indeed meaning, of policy. Although neither of these two definitions include specific reference to settlement boundaries, they both refer to existing development in the form of the main built up or urban areas.

14. These definitions are, to my mind, compatible with the wording of the policy, namely that new development should consolidate or expand the existing main built up or urban areas; not, as the appellant suggests, consolidate or expand settlement boundaries. This is because, the Council pointed out at the hearing, this first part of DMG2 allows for the circumstance where a settlement boundary encompasses or includes land that is yet to be developed, thereby allowing limited growth of the settlement."

Further to this, the appeal Inspector for Land to the South of Chatburn Old Road concluded that the minimum housing requirement for Chatburn had not been met at that time. In allowing that appeal, an additional 9 dwellings were added to the supply of housing for Chatburn. The LPA is satisfied that the housing requirement for Chatburn has been met and there is no impetus to grant consent for additional housing on land outside the settlement boundary contrary to policies DMG2 and DMH3 of the Core Strategy.

Design and visual appearance:

The proposed dwelling(s) would be located to the south of Glencroft. The application site, whilst stated to be 'garden land associated' with Glencroft, contains no features to indicate domestic use. It is physically separated from the residential planning unit of Glencroft by the brook and its development would result in encroachment into the open countryside.

Policy DMG2 of the Core Strategy requires, amongst other things, that within the open countryside, development should be in keeping with the character of the landscape. Visually the site forms part of an area of land which is free from permanent built form. It is surrounded by fields and, as such, it is relatively open and makes an important contribution to the visual transition to the wider countryside beyond. Thus, the proposal would not be in keeping with the character of the local landscape.

Effect on Residential Amenity:

It is important to consider the impact of the development of existing residents and future occupants of proposed dwellings. As noted above, land to the north benefits from planning permission for the demolition and rebuild of the existing dwelling and the erection of an additional dwelling under planning application 3/2020/0112. The only property that could be directly impacted is the existing dwelling, Glencroft, or the two proposed new build dwellings with consent. Dwellings along the northside of Pendle Avenue would be a sufficient distance from the development proposals to avoid any loss of light, privacy or outlook.

The separation distances between existing and proposed dwellings, as denoted on the proposed site plan, are generally considered to be acceptable. The proposed new dwellings have been orientated such that their front elevations do not directly face the rear elevations of the dwelling(s) to the north and as such interface distances between first floor windows/balconies exceed the required 21 metre distance.

Highway Safety:

The County Highways Officer has confirmed that the proposed development would not have a significant impact on highway safety subject to appropriate conditions. The site would be accessed along Pendle Avenue, an unclassified road and would require a bridge over the brook for access. It is noted that the proposed route of the new access, between the previously consented dwellings to the north, would conflict with parking spaces already approved.

Taking into account the proposed site layout, there would be adequate spaces within the site for vehicles to enter and leave the site in forward gear although no information has been provided to demonstrate manoeuvrability for delivery or refuse vehicles.

There would be a requirement to divert the public right of way which runs directly through the site. No details have been provided to indicate the proposed re-routing of the PROW and there is no other land within the applicant's ownership through which the PROW could be diverted.

Concerns regarding rights of access along Pendle Avenue are noted but this is not necessarily a planning matter.

Other Considerations:

The Preliminary Ecological Appraisal of the site confirms that plant species present are considered to be of low ecological value. A small area of woodland to the east of the site has moderate value and would be retained and protected within the proposed development. The woodland fragments are likely to provide shelter for foraging bats and high-quality bat habitat extends from the site. No indications of roosting or suitable roost sites were located within trees.

The Arboricultural Impact Assessment and Method Statement identifies a requirement to remove three trees at the site (T3, T4 and T5) in addition to low qualities groups. A landscaping scheme for the site should provide suitable replacement tree planting and enhancement of the biodiversity potential of the site in accordance with the compensatory planning and habitat enhancement details contained at section 7 of the Preliminary Ecological Appraisal.

The application site to the north lies within Flood Zones 2 and 3 – part of the site to the south is within Flood Zone 1. The proposed dwellings, at least in part, would lie within Flood Zones 2 and 3 as would the site access. Residential development is categorised as 'more vulnerable' in the National Planning Guidance. According to Flood Risk Standing Advice the applicant is required to satisfy the Exception and Sequential Tests.

The Environment Agency have provided a detailed response and raise the following points:

- *The flood extents do not follow the topography in this area, which demonstrates that the modelled flood extents at this location are not realistic. Due to the flood risk in this area and the proposed development being served by the proposed singular point of access, it is important that a more detailed assessment of flood risk is undertaken.*
- *EA access to the main river, Heys Brook must be considered in more detail. A large amount of development appears to be proposed within 8m of the top of bank of Heys Brook which would impair the EA's access for maintenance and improvement works to the river. This includes fencing, suspended paths and drives and buildings. The EA requires that 8m from the top of the bank must remain development-free. It is unlikely that a permit for development within this area would be forthcoming.*
- *It is a concern that access and egress has not been adequately assessed to and from the site. It is likely that access to these properties will be cut off in a flood event potentially resulting in a risk to life. Currently, the proposal has outlined that there is a singular point of access and egress to the site which will cross the watercourse and its flood plain. Inadequate assessment of the access and egress to the site has been made and based on the information available at present, the properties are likely to remain cut-off and isolated in a flood event. In addition, there are a number of details which have not been provided which would further affect flood risk and access this includes; 1) Bridge and 2) Suspended driveway and footpaths.*
- *Neither a detailed bridge design nor an assessment of its impact on flood risk have been provided. Due to the broad scale nature of the available modelled information at this location, detailed modelling must be undertaken to demonstrate that the proposed bridge will not increase flood risk at the site and elsewhere in events up to the 1% AEP plus climate change. This is critical to confirm that the design of the bridge does not cause an increased risk of flooding and that flood free access is provided to the proposed dwellings.*
- *The proposed suspended driveway and footpath designs have not been provided and therefore very little assessment has been made in relation to the impact of the designs on flood risk. Suspended structures can reduce capacity within the flood plain and affect flood flows. The proposed designs must be provided and modelled to show that they will not adversely affect flood risk. In addition, the suspended structures will affect access to the watercourse as these are in close proximity to the site.*
- *Whilst not being secured at outline stage - as modelling of the proposed site has been requested – the finished floor levels must be updated in line with the modelling.*
- *Climate change allowances must be assessed in line with the Planning Practice Guidance. In line with this guidance, more vulnerable developments with a lifetime of 100-years, should consider the 35% and 70% climate change uplifts in the North West.*
- *The FRA states that the closest main river is the River Ribble, which is incorrect. Heys Brook which flows through the site is also a main river.*

The Framework and NPPG state that inappropriate development in areas of flooding should be avoided by directing development away from areas of highest risk through the application of the 'Sequential Test'. This requires local planning authorities to refuse new developments if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is considered that the applicant has failed to adequately consider alternative sites on the basis of land ownership only.

Furthermore, the application has failed to satisfy the Exception Test which requires the proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall. The proposed development would be contrary to Policy DME6 of the Core Strategy and the relevant paragraphs of section 14 of the Framework.

Conclusion:

Considering the above, the creation of two open market dwellings within the defined open countryside without sufficient justification would be contrary to Policies DMG2 and DMH3 of the Core Strategy. The development would also result in harm encroachment into the open countryside, and thus would conflict with Key Statement EN2 and Policy DMG2 of the Core Strategy.

The applicant has failed to provide any information regarding alternative sites nor submitted evidence to demonstrate that the development proposals would provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime.

As such, it is recommended that the application be refused.

RECOMMENDATION:

That planning permission be refused for the following reason(s):

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| 01 | The proposal is considered contrary to Policies DMG2 and DMH3 of the Ribble Valley Core Strategy in that approval would lead to the creation new residential dwellings in the defined open countryside, located outside of a defined settlement boundary, without sufficient justification insofar that it has not been adequately demonstrated that the proposal is for that of local needs housing that meets a current identified and evidenced outstanding need. |
| 02 | The proposal is considered contrary to Key Statement EN2 and Policies DMG1, DMG2 and DMH3 of the Ribble Valley Core Strategy as it would lead to the creation new residential dwellings that would be injurious to the character and visual amenities of the area and would result in unbridled encroachment into the open countryside. |
| 03 | The Flood Risk Assessment (by Earth Environmental & Geotechnical dated February 2021 (rev. A)) submitted with the application does not comply with the requirements for site-specific flood risk assessments as set out in paragraphs 30-32 of the Flood risk and coastal change section of the PPG and does not therefore provide a suitable basis for assessment to be made of flood risks arising from the proposed development or that the development would be safe for its lifetime. |
| 04 | The applicant has not provided sufficient information regarding alternative sites nor submitted evidence to demonstrate that the development proposals would provide wider sustainability benefits to the community that outweigh flood risk and has thus failed to meet the Sequential and Exceptions tests which aim to steer new development to areas with the lowest risk of flooding. In the absence of such information the development is contrary to Policy DME6 of the Core Strategy and paragraph 163 of the Framework. |
| 05 | The proposed development would restrict essential maintenance and emergency access to the watercourse, Heys Brook. The permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and/or improvement works and the proposed development could obstruct flood flows, thereby increasing the risk of flooding to surrounding areas, contrary to Core Strategy Policy DME6. |
| 06 | The applicant has failed to demonstrate that the proposals would retain, maintain and improve the local footpath network contrary to Policy DMB5 of the Ribble Valley Core Strategy (Adopted Version). |